

SENATE BILL 1265

By Burchett

AN ACT to amend Tennessee Code Annotated, Title 39,
Chapter 14, Part 5, relative to the offense of
littering.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 14, Part 5, is amended by deleting the part in its entirety and by substituting instead the following:

Section 39-14-501. As used in this part, unless the context otherwise requires:

- (1) "Commercial purpose" means litter discarded by a business, corporation, association, partnership, sole proprietorship, or any other entity conducting business for economic gain, or by an employee or agent of the entity;
- (2) "Garbage" includes putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food;
- (3) "Litter" includes garbage, refuse, rubbish and all other waste material;
- (4) "Refuse" includes all putrescible and nonputrescible solid waste; and
- (5) "Rubbish" includes nonputrescible solid waste consisting of both combustible and non-combustible waste.

Section 39-14-502. In counties with an environmental court designed pursuant to Chapter 426 of the Public Acts of 1991, such courts shall exercise exclusive general sessions jurisdiction, pursuant to title 40, over this part.

Section 39-14-503.

(a) A person commits littering who:

- (1) Knowingly places, drops or throws litter on any public or private property without permission and does not immediately remove it;

(2) Negligently places or throws glass or other dangerous substances on or adjacent to water to which the public has access for swimming or wading, or on or within fifty feet (50') of a public highway; or

(3) Negligently discharges sewage, minerals, oil products or litter into any public waters or lakes within this state.

(b) Whenever litter is placed, dropped, or thrown from any motor vehicle, boat, airplane, or other conveyance in violation of this section, the trier of fact may, in its discretion and in consideration of the totality of the circumstances, infer that the operator of the conveyance has committed littering.

(c) Whenever litter discovered on public or private property is found to contain any article or articles, including but not limited to letters, bills, publications, or other writings which display the name of a person thereon in such a manner as to indicate that the article belongs or belonged to such person, the trier of fact may, in its discretion and in consideration of the totality of the circumstances, infer that such person has committed littering.

Section 39-14-504.

(a) Criminal littering is littering in an amount less than or equal to ten pounds (10 lbs.) in weight or fifteen (15) cubic feet in volume.

(b)

(1) Criminal littering is a Class C misdemeanor punishable by a fine of fifty dollars (\$50.00) and as provided in subdivisions (b)(2) and (b)(3).

(2) A person charged with a violation of this section may, in lieu of appearance in court, submit the applicable fifty dollar (\$50.00) fine to the clerk of the court which has jurisdiction of such offense within the county

in which the offense charged is alleged to have been committed. A person paying in this manner is not subject to the provisions of subdivision (b)(3) and shall not pay court costs under this charge or any charge drafted which is substantially similar to this section. All proceeds from the fines imposed by this subsection (b) shall be deposited in the general fund of the county where the offense occurred and designated for litter prevention programs and education. Any person who reports information to a law enforcement officer that leads to the apprehension and conviction of a person for a violation of this section shall receive a reward of fifty dollars (\$50.00). The county where the offense occurred shall provide the reward money from the proceeds of the mandatory fines collected under the provisions of this section.

(3) In addition to the penalties established in subdivision (b)(1), the person convicted shall pay applicable court costs and the court may, in its discretion, require a person convicted under this section to:

(A) Remove any substance listed under § 39-14-503(a) that was dropped, placed or discharged by the person and restore the property or waters damaged by the littering to its former condition at the person's expense;

(B) Remove litter from the state or local highway system, public playgrounds, public parks or other appropriate public locations for not more than forty (40) hours nor more than six (6) months; and

(C) Work in a recycling center or other appropriate location for any stated period of time not to exceed eight (8) hours.

Section 39-14-505.

(a) Aggravated criminal littering is littering in an amount exceeding ten pounds (10 lbs.) in weight, or 15 (fifteen) cubic feet in volume, or in any amount for any commercial purpose.

(b) Aggravated criminal littering is a Class A misdemeanor, except in the following circumstances, in which case it is a Class E felony:

(1) Upon the third conviction in any amount exceeding ten pounds (10 lbs.) in weight, or 15 (fifteen) cubic feet in volume; or

(2) Upon the second conviction in any amount exceeding one thousand pounds (1,000 lbs.) in weight or two hundred (200) cubic feet in volume, or in any amount for any commercial purpose.

(c)

(1) Those convicted of aggravated criminal littering shall be punished according to title 40, chapter 35 and shall pay all costs associated with the removal of the litter.

(2) In addition to the penalties established in subdivision (c)(1), the court may in its discretion require a person convicted under this section to:

(A) Remove any substance listed under § 39-14-509(a) that was dropped, placed or discharged by the person and restore the property or waters damaged by the littering to its former condition at the person's expense; and

(B) Remove litter from the state or local highway system, public playgrounds, public parks or other appropriate public

locations for not more than forty (40) hours nor more than six (6) months; and

(C) Work in a recycling center or other appropriate location for any stated period of time not to exceed six (6) months.

(d) Any person who reports information to a law enforcement officer that leads to the apprehension and conviction of a person for a violation of this section shall receive a reward of fifty dollars (\$50.00). The county wherein the offense occurred shall provide the reward money from the proceeds of the mandatory fines collected under the provisions of § 39-14-504(b)(2).

Section 39-14-506.

(a)

(1) Any motor vehicle, which transports litter, or any material likely to fall or be blown off onto the highways, shall be required to have such material either in an enclosed space or fully covered by a tarpaulin.

(2) If such motor vehicle is a non-commercial, not-for-hire pickup truck, the provisions of this subsection (a) shall be construed to be complied with if the material on such non-commercial, not-for-hire pickup truck is secured in such a way as to reasonably ensure it will not fall or be blown off the vehicle.

(3) All other pickup trucks and other motor vehicles are required to comply with the provisions of subdivision (a)(1).

(4) Any motor vehicle having a gross weight of less than sixteen thousand pounds (16,000 lbs.) which is transporting litter, to an energy recovery facility, as defined in § 68-211-501, shall be required to have

such material in an enclosed space, unless it is a motor vehicle with a factory installed hydraulic lift system that lifts the entire bed of the truck.

(5) The provisions of this subsection (a) do not apply to motor vehicles transporting recovered materials to a convenience center or scrap dealer for recycling.

(6) The provisions of this section shall not apply to motor vehicles which transport crushed stone, fill dirt and rock, soil, bulk sand, coal, phosphate muck, asphalt, concrete, other building materials, forest products, unfinished lumber, agricultural lime and agricultural products, and which are located in compliance with the four-inch requirement of § 55-7-109. Such exemption shall not apply to any load if any law enforcement officer sees any part of such material blowing off such vehicle. The provisions of this section shall also not apply to motor vehicles which transport farm produce going to market, or from field to field, or from field to storage.

(b) A violation of this section is a Class B misdemeanor. In addition to the penalty for such misdemeanor the court may, in its discretion, impose any of the penalties set forth in § 39-14-504(b)(3).

Section 39-14-507.

(a)(1) County legislative bodies may, by resolution, impose regulations for litter control, including the placing, dropping, throwing, collection and storage of garbage, litter, refuse and rubbish on public or private property. The definitions pursuant to § 39-14-501 for commercial purposes, garbage, litter, refuse, and rubbish may be included by reference in any such resolution. The

county legislative body is authorized to include in the resolution that a violation occurs if a person:

(A) Knowingly places, drops or throws litter on any public or private property without permission and does not immediately remove it; or

(B) Negligently places or throws glass, litter or other dangerous substances on or adjacent to water to which the public has access for swimming or wading, or on or within fifty feet (50') of a public highway.

(2) Such regulations shall be at least as stringent as the provisions of this part.

(b)

(1) The regulations promulgated in accordance with the provisions of subsection (a) may grant authority for the county to require property owners to conform their property to the regulations by removal of garbage, litter, refuse or rubbish. The county shall send a statement to the owner itemizing the cost of the removal. If the owner fails to reimburse the county for the cost of the removal within sixty (60) days, the statement shall constitute a lien upon the property. The statement shall constitute a lien upon the property as of the date the notice is filed and shall have priority from the date of the filing of notice, but shall not affect, or have priority over, any valid lien, right, or interest in the property duly recorded, or duly perfected by filing, prior to the filing of the notice and shall not have priority over and real estate tax liens, whether attaching on the property before or after the filing of the notice.

(2) If such property owner is aggrieved by the amount of the lien filed, such owner may submit the matter to the chancery court of the county in which the property is located to determine the appropriate amount of the lien. A decision of that court may be appealed according to the Tennessee rules of appellate procedure.

(3) The lien provided in this section shall be entered in the records of the register of deeds of the county in which the property lies. Such lien shall be satisfied to the extent of the value of the consideration received at the time of the transfer of ownership, and if the lien is not fully satisfied at the time of transfer, it shall remain a lien upon the property until it is fully satisfied.

(c) Each resolution adopted in accordance with subsection (a), or the caption and a complete summary of the resolution, shall be published after its final passage in a newspaper of general circulation in the county. No such resolution shall take effect until the publication.

(d) Any violation of the provisions or regulations adopted pursuant to subsection (a) shall be punished by imposing a monetary penalty in accordance with the provisions of § 5-1-121.

(e) No provision in this section shall be construed as applying to any activity regulated pursuant to title 68, chapters 211 or 212 or title 69, chapter 3. § 39-14-508.

(a) All law enforcement agencies, officers, and officials of this state or any political subdivision thereof or any enforcement agency, officer, or any official of any commission or authority of this state or any political subdivision thereof is authorized, empowered, and directed to enforce compliance with this part.

(b) Any county, municipality, consolidated government, or law enforcement agency thereof this state which is empowered by subsection (a) or other law to enforce the provisions of this section or local littering ordinances may, in its discretion, appoint any person who is a citizen of the United States, is of good moral character, and has not previously been convicted of a felony or criminal misdemeanor to enforce the provisions of this section or local littering ordinances within the county, municipality, or consolidated government in which the appointing agency exercises jurisdiction. Each person appointed pursuant to this section shall take and subscribe an oath of office as prescribed by the appointing authority. Any person appointed and sworn pursuant to this subsection (b) shall be authorized to enforce the provisions of this section or local littering ordinances in the same manner as any employee or law enforcement officer of this state or any county, municipality, or consolidated government of this state subject to the limitations provided in subsections (e) and (f).

(c) No person appointed pursuant to subsection (b) shall be deemed a peace officer under the laws of this state or:

(1) Be deemed to be an employee of or receive any compensation from the state, county, municipality, consolidated government, or appointing law enforcement agency;

(2) Be required to complete any training or be certified pursuant to any of the laws of this state;

(3) Have the power or duty to enforce any traffic or other criminal laws of the state, county, municipality, or consolidated government;

(4) Have the power to possess and carry firearms and other weapons for the purpose of enforcing the littering laws; or

(5) Be entitled to any indemnification from the state, county, municipality, or consolidated government for any injury or property damage sustained by such person as a result of attempting to enforce the littering laws of this state or any local government.

(d) Notwithstanding any provision of law to the contrary, neither the state nor any county, municipality, or consolidated government of this state or any department, agency, board, or officer of this state or any county, municipality, or consolidated government of this state shall be liable or accountable for or on account of any at or omission of any person appointed pursuant to this section in connection with such person's enforcement of the provisions of this section or local littering ordinances.

(e) It shall be unlawful for any person willfully to obstruct, resist, impede, or interfere with any person appointed pursuant to this section in connection with such person's enforcement of this section or local littering ordinances or to retaliate or discriminate in a manner against such person as a reprisal for any act or omission of such person. A violation of this subsection (e) shall be punishable as a Class C misdemeanor with a fine of fifty dollars (\$50.00).

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.